

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Rudi Rivas,

Petitioner,

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y

ORDER TO SHOW CAUSE

- against -

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JAN 07 2016

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CV-15-7011(SJF)

William A. Lee,

LONG ISLAND OFFICE

Respondents.

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FEUERSTEIN, J.

Upon the petition for issuance of a writ of habeas corpus pursuant to 28 U.S.C. 2241, filed 12/7/2015 a copy of which is annexed, it is hereby ORDERED:

(1) that petitioner is granted leave to proceed in forma pauperis; and it is further ORDERED,

(2) that within sixty (60) days of receipt of this order, the Attorney General of the State of New York or, the District Attorney of SUFFOLK County, as attorney for respondents, shall (a) show cause before this Court, by filing a return to the petition, why a writ of habeas corpus should not be issued, and (b) serve a copy of the return upon petitioner herein and file proof of such service with the Clerk of this Court; and it is further ORDERED,

(3) that at the time the return is filed, respondents shall (a) electronically file the State Court Record-including the state court trial transcript and record, copies of petitioner's and the District Attorney's briefs on appeal and in connection with any proceedings pursuant to Section 440 of the New York Criminal Procedure Law or an application for a writ of error coram nobis, and all relevant state court decisions and opinions-with no individual attachment exceeding twenty (20) megabytes, and (b) submit a hard copy of the State Court Record to Chambers, which must be clearly marked "Courtesy Copy, original filed on ECF;" and it is further ORDERED,

(4) that within twenty-one (21) days of service of a copy of the return upon petitioner, petitioner shall file his reply thereto, if any, with the Clerk of this Court and serve a copy thereof upon respondents; and it is further ORDERED,

(5) that if the District Attorney serves and files a motion to dismiss the petition on the grounds that it was not timely filed, the District Attorney may defer filing a return (and the accompanying State Court Record) pending the determination of the motion to dismiss; and it is further ORDERED,

(6) that the Clerk of the Court shall (a) serve a copy of this Order to Show Cause, together with a copy of the petition, upon the Attorney General of the State of New York, 300 Motor Parkway, Hauppauge, NY, 11788, and the District Attorney of SUFFOLK County by electronic service (ECF), and (b) serve notice of entry of this Order to Show Cause upon petitioner pursuant to Rule 77(d)(1) of the Federal Rules of Civil Procedure.

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: Central Islip, New York
January 7, 2016